

19 February 1971

Mrs. Naomi R. Sweeney
Office of Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mrs. Sweeney:

This is in response to your request for our views on the Civil Service Commission's draft bill "Relating to age requirements for appointments to positions in Executive agencies, and in the competitive service."

The draft bill extends the current ban on maximum age limits for entry into the competitive service to include all civil service positions. It also authorizes the Civil Service Commission to except specific positions from the ban.

It is understood that the chief aim of the draft bill is to eliminate the necessity for legislation for each exception to the current outright ban. Since Agency positions are not within the competitive service, we have no substantive comments on the need for such relief.

The provision in the draft bill for Civil Service Commission review of the qualifications and responsibilities of positions in order to make a determination that age is a bona fide occupational qualification reasonably necessary to the performance of duty does present a problem, however. This external review would conflict with the statutory security responsibilities placed upon the Director of Central Intelligence "...for protecting intelligence sources and methods from unauthorized disclosure;" (50 U.S.C. 401). The nature of Agency positions and the duties performed by the incumbents, are inextricably related to the security responsibilities of the Director of Central Intelligence.

In recognition of the general security considerations which are here involved, the Central Intelligence Agency Act of 1949 provides, "Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions, including - (1) personal services, including personal services without regard to limitations on types of persons to be employed,..." (50 U.S.C. 403j). Subsequently, and as a correlative of this authority and the Director's statutory responsibility, CIA positions have been specifically exempted from statutes governing civil service positions, e. g. the Classification Act of 1949 and the Personnel Rating Act of 1950.

In view of the above considerations, it is requested that CIA positions be specifically exempted from the provisions of the draft bill. Such action is completely consistent with what has been proposed and approved in the past in connection with similar legislation. Suggested language is enclosed.

Sincerely,

John M. Maury
Legislative Counsel

Enclosure

Distribution:

Original & 1 - Adse
1 - Subject file
1 - OLC Chrono
OLC:LLM:rcr (19 February 1971)

STAT

ATTACHMENT

Proposed amendment:

"Sec. 4. This Act does not apply to positions in or under the Central Intelligence Agency."